

IN THE MATTER OF THE
ADMINISTRATIVE APPEAL
OF ROCKVILLE CORPORATE
CENTER, LLC, ("RCC" OR "COPT") –
15 AND 45 WEST GUDE
DRIVE

From the City Manager's letter
Dated January 2, 2007

: BEFORE THE CITY OF
:
: ROCKVILLE
:
: BOARD OF APPEALS
:
: Case No. APP2007-00876
:

MOTION TO DISMISS

The Office of the City Attorney is representing the City in this administrative appeal before the Board. On behalf of the City, we request that this administrative appeal be dismissed without further proceedings on the following grounds:

1. This appeal taken by Rockville Corporate Center, LLC ("RCC" or "COPT") is premature in that it is not taken from a final administrative action. The appeal purports to be taken from the January 2, 2007 letter from City Manager Scott Ullery (erroneously referred to as the January 7, 2007 letter in the appeal application). COPT is under the mistaken belief that the City Manager's letter constitutes a denial of its building permit application BLD2007-13010. Such is not the case. The City Manager neither processes nor makes decisions on applications for building permits. Building permit applications are processed through the City's Division of Inspection Services. At the time of Mr. Ullery's letter, the building permit application had not been complete, inasmuch as a Forest Conservation Plan had not been submitted for review and approval by the City Forester. Moreover, the City's Department of Public Works had not completed its review

of the Stormwater Management Concept Plan for the project. Both of those reviews must be complete before action can be taken on a building permit application.¹

Mr. Ullery's letter was sent in connection with discussions the City was having with COPT about possible alternative development plans that would save more trees as required by City law. While those discussions were on-going COPT filed the subject building permit application based on the original use permit granted for the site in 1983. Mr. Ullery's letter informed COPT that the alternative design plans it had submitted were not acceptable because they could not be implemented without multiple variances and significant changes in City law. At the same time, Mr. Ullery took the opportunity to alert COPT to apparent problems with the building permit application it had submitted. Mr. Ullery specifically noted that the building permit application could not be processed at that time because "there is no approved Forest conservation Plan on file."²(Attachment "A") Mr. Ullery's letter was not, and could not be, an official denial of the building permit application, but rather was a "heads up" as to defects in the application. The main thrust of Mr. Ullery's letter was to encourage COPT to continue to explore other project designs that would comply with the City's planning requirements and the Forest and Tree Preservation Ordinance ("FTPO").

COPT's representatives clearly understood that Mr. Ullery's letter was not an official denial of its building permit application, for they continued to pursue the building permit subsequent to the letter:

¹ Additional approvals are also required before a building permit can be issued, including, but not limited to, a sediment control permit, a stormwater management permit, and access approval from the State Highway Administration.

² The City's Forest and Tree Preservation Ordinance (as contained in Chapter 10.5 of the Rockville City Code) was adopted on December 14, 1992, and expressly applies to all applications for a covered permit made on or after January 1, 1993. Covered permits include a sediment control permit, which is required

- On January 9, 2007 Kevin Johnson of JBA, COPT's engineering firm, sent an e-mail to City engineer Lise Soukup asking her to review and approve the SWM Concept Plan it had submitted. (Attachment "B")
- On January 12, 2007 Kevin Johnson of JBA (COPT's engineering firm) submitted to Assistant City Forester, Elise Cary, COPT's proposed Final Forest Conservation Plan for review. (Attachment "C")
- On January 18, 2007 the fee for the Forest Conservation Plan review was received by the City. (Attachment "D")
- On February 26, 2007 Ms. Carey submitted her comments on FTP No. 20005-00025 requiring a number of revisions to the Forest Conservation Plan to meet the requirements of the FTPO. (Attachment "E")
- In March 2007 Elise Cary speaks with Sean Moore of COPT and Kevin Johnson of JBA to discuss her comments.
- On March 16, 2007 City Chief Engineer Susan Straus issued a letter approving the SWM Concept Plan for the COPT site. (Attachment "F")

Neither COPT nor its engineering firm would have submitted required plans and requested their review had they thought that the building permit had been officially denied by the City Manager.

On information and belief, counsel for the City states that an official letter reflecting the City's action on the building permit application is being prepared by appropriate City Staff. If COPT feels aggrieved by that official decision once it is issued, COPT may then note its appeal to this Board.

2. This appeal is moot, in that COPT has no valid use permit that can be implemented by building permit application BLD2007-13010. When the Mayor and Council amended the Zoning Ordinance in 1993 to authorize the Planning Commission to impose an eight (8) year time limit for commencement for all phases of development for multiple building development use permits, COPT's predecessor was not covered by the new law because the use permit for the subject property had previously been

before any additional construction can occur on the subject site (see Sec. 10.5-2 and 10.5-5 of the Code attached as Attachment H).

approved without such condition. However, in 2004 the Mayor and Council amended section 25-193 of the Zoning Ordinance to remove the time limitation as a condition imposed by the Planning Commission, and, instead flatly declared that: "a use permit shall become void for those buildings within a multiple building development for which construction has not commenced within eight (8) years from the date of issuance of the use permit," except for developments located within the Town Center zones or within the Twinbrook Metro Performance District. Use Permit U-279-83 was issued for the COPT site in 1983. More than twenty (20) years have passed and the construction of the last two buildings approved by the original use permit have not commenced. Consequently Use Permit U-279-83 is void with respect to the un-built buildings, and a new use permit application must be filed for any further development on the site. (A copy of Ordinance No. 28-04 is attached as Attachment "G")

For the foregoing reasons, counsel for the City requests that the Board of Appeals dismiss this Administrative Appeal.

Respectfully submitted,



Sondra Harans Block
Assistant City Attorney

CERTIFICATE OF SERVICE

I hereby certify that on this 31 day of March, 2007, a copy of the foregoing Motion to Dismiss was mailed, via first class mail, postage prepaid to Scott Wallace, Esquire, Linowes and Blocher, 7200 Wisconsin Avenue, Suite 800, Bethesda, Maryland 20814, Attorney for Appellant.



Sondra Harans Block



City of Rockville
111 Maryland Avenue
Rockville, Maryland
20850-2364
www.rockvillemd.gov

City Manager
240-314-8100
TTY 240-314-8137
FAX 240-314-8130

Attachment A

January 2, 2007

Sean Moore
Commercial Office Properties Trust
6711 Columbia Gateway Drive, Suite 300
Columbia, MD 21046

Re: Building Permit Application BLD2007-13010 and "Scheme B" Proposal

Dear Mr. Moore:

The above-referenced building permit was submitted to the Inspection Services Division on November 20, 2006. The Building Permit cannot be approved as submitted because the building footprint does not match the footprint shown on the approved site plan for Use Permit USE1983-00279. In addition, the compact parking spaces that were approved in 1983, but not built, are no longer valid per the Zoning Ordinance, and have not been eliminated from the site plan through approval of a Use Permit amendment.

The subject application filed under the approved Use Permit requires approval of a Forest Conservation Plan (FCP) prior to the issuance of any permits. The City's Forestry Division has reviewed the application and determined the City could not approve an FCP for this site based on this application. The existing forest located between the buildings and the King Farm property has been designated as a Priority Retention Area pursuant to Section 10.5-21(b) of the Forest and Tree Preservation Ordinance. That section requires that priority retention areas "...be retained, protected and left in an undisturbed condition unless it is demonstrated, to the satisfaction of the City Forester, that reasonable efforts have been made to protect them and the proposed development activity cannot be reasonably altered." The City Forester has determined that reasonable efforts have not been made to alter the proposed development in a manner that can be implemented under existing law so as to protect and preserve this priority forest. Consistent with the law and the stated policy of the Mayor and Council to maximize the number of existing trees retained on a development site, the City will not permit forest to be cleared below the forest conservation break-even point resulting in a reforestation requirement. All forest retention and significant tree replacement planting must be met on site. Fee in lieu or off site planting will not be permitted.

As an option to the building permit application, COPT has proposed changes to the site plan. I am taking this opportunity to address several issues noted in your memorandum of November 9, 2006, necessary to implement the design known as "Scheme B." Variances from Sections 25-411(a), 25-411(f) and 25-311, Table II were noted as necessary to implement "Scheme B". There are, however, no provisions in the Ordinance to allow for variances other than for area, bulk or density. Sections 25-411(a) and (f) deal with minimum parking space width and required landscaping islands

MAYOR
Larry Giammo

COUNCIL
Robert E. Dorsey
Susan R. Hoffmann
Phyllis R. Marcuccio
Anne M. Robbins

CITY MANAGER
Scott Ullery

CITY CLERK
Claire F. Funkhouser

CITY ATTORNEY
Paul T. Glasgow



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City Manager
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Sean Moore
Page 2
January 2, 2007

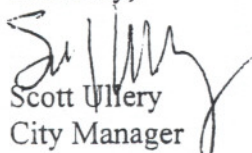
within parking lots that contain over 150 parking spaces. Neither of these provisions qualifies as area, bulk or density requirements. (The setback standards in Section 25-311 do qualify, and an application may be submitted for action by the City of Rockville Board of Appeals.) As a result, the only process available to gain relief from the standards of Section 25-411 would be through a Text Amendment. It is not likely, however, that a reduced parking space width would be favorably received by the City.

Two of the issues identified in your memorandum involve release of a portion of an existing forest conservation easement along West Gude Drive and the abandonment or release of a stormwater management easement on the southwest corner of the property. A small amount of disturbance to the lesser priority forest within the forest conservation easement adjacent to West Gude Drive is a reasonable compromise in order to retain more of the priority forest between the COPT property and the King Farm Development. City staff would support abandonment or release of the stormwater management easement on the southwest corner of the property.

The City will not be able to accommodate your request to expedite the variances. Not only are we unable to process variances for relief from Section 25-411, a moratorium was placed on the processing of Text Amendments effective November 13, 2006. Further, we are unable to process the current Building Permit submittal because it does not match the footprint approved with Use Permit USE1983-00279 and there is no approved Forest Conservation Plan on file.

We appreciate COPT's attempts to work with the City to achieve the goal of reducing the destruction of trees on the site. It is regrettable that neither "Scheme B" nor the building permit application could accomplish this goal. We encourage COPT to continue efforts to design a project that will comply with the City's Forest and Tree Preservation Ordinance, and we are committed to assist you toward that end.

Sincerely,


Scott Ullery
City Manager

MAYOR
Larry Giammo

COUNCIL
Robert E. Dorsey
Susan R. Hoffmann
Phyllis R. Marcuccio
Anne M. Robbins

CITY MANAGER
Scott Ullery

CITY CLERK
Claire F. Funkhouser

CITY ATTORNEY
Paul T. Glasgow

cc: Jim Waslak
Art Chambers
Margaret Hall
Burt Hall
Wayne Doll
Elise Carey
Craig S. Mearns



"Kevin J. Johnson"
<kjohnson@jba-inc.net>
01/09/2007 10:18 AM

To <LSoukup@rockvillemd.gov>
cc <sean.moore@copt.com>
bcc
Subject COPT Celera

History: This message has been forwarded.

Lise,

After discussing with our Client, we would like you to complete your review and approval of the SWM Concept Plan, which was resubmitted on October 13, 2006. Please let me know if you need any additional information, or have any questions. Thanks.

Kevin

Kevin J. Johnson, P.E.

President
1395 Piccard Drive, Suite 350
Rockville, Maryland 20850
(301) 963-1133 x11
(301) 963-6306 Fax
www.jba-inc.net



Johnson ♦ Bernat ♦ Associates, Inc.

January 12, 2007

Ms. Elise Cary
City of Rockville
Department of Recreation and Parks
14625 Rothgeb Drive
Rockville, Maryland 20850

Re: COPT - Celera
USE Permit: USE1983-00279

Dear Elise:

Attached for your review are two (2) copies of the Final Forest Conservation Plan. Also enclosed are the application, review fee, approved Forest Stand Delineation, and the approved USE Permit drawing. The plans reflect the existing specimen trees and forest stand limits to be removed by the development, and the planting plan for replanting to meet the requirements for specimen tree replacement on-site. Given the constraints on adjustments to the approved Use permit, we are required to meet the reforestation requirement off-site or by fee-in-lieu, as reflected in FCP worksheet. The plantings have been enhanced in other areas of the project to meet on-site replacement and to supplement the buffer along the north property line.

Thank you for your consideration and please call me if you have any questions.

Sincerely,

Johnson ♦ Bernat ♦ Associates, Inc.

Kevin J. Johnson, P.E.
President

Cc: Sean Moore, COPT
Jef Fuller, DNC
Hank Alinger, EDSA



City of Rockville
Department of Recreation and Parks
Forestry Division
14625 Rothgeb Drive • Rockville, MD 20850-5312 • 240-314-8700
www.rockvillemd.gov

Fee should be
\$ 5750

Attachment D

FCP

APPLICATION FOR

FOREST CONSERVATION PLAN (FCP) REVIEW

PROJECT IDENTIFICATION: Rockville Corporate Center

Application is hereby made with the City of Rockville for approval of a Forest Conservation Plan Review for the property described below:

PLEASE PRINT CLEARLY OR TYPE	PROPERTY ADDRESS										
	NUMBER, STREET & ZIP										
	15 and 45 West Gude Drive 20850										
	SUBDIVISION	VIETRO ADDITION	LOT	1	BLOCK	R	NO. OF ACRES	TAX ACCOUNT NO.			
	to College Gardens						24.5060	04-03309363 04-03238277			
	ZONING	I-3	SINGLE RECORD LOT	X YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	PLAT BOOK NO.	132	PLAT NO.	15303	LIBER	5742 6164	FOLIO
NAME		MAILING ADDRESS - NUMBER, STREET, CITY, STATE, ZIP						PHONE / FAX / E-MAIL			
APPLICANT*	FIRST	SEAN							Rockville Corporate Center LLC		
	LAST	MOORE							90 Corporate Office Properties Trust		
PROPERTY OWNER	FIRST	8815 Centre Park Drive, Ste 400							143285-7653		
	LAST	Columbia MD 21045							410-730-9092 (office) 410-992-7227 (Fax)		
ENGINEER/ OTHER	FIRST	Kevin							Johnson Bernat Assoc. 1395 Picard Drive, Ste 350 Rockville MD 20850		
	LAST	Johnson							301-963-1133 Kjohnson@jba-inc.net		
QUALIFIED FCP PREPARER:	FIRST	Henry M.							EOSA 60 Corporate Center, 10490 Little Patuxent Pkwy (443) 539-3350 Ste 200, Columbia MD 21044		
	LAST	Alinger									

LICENSED MD FORESTER

NUMBER: _____

LICENSED MD LANDSCAPE ARCHITECT

NUMBER: #505

* A letter of authorization from the owner must be submitted if this application is filed by anyone other than the owner

☒ CORPORATION:

☐ PARTNERSHIP

Maryland

Jurisdiction in which Organized

☐ GENERAL

☐ LIMITED

Roger A. Waesche, Jr

Name of Person Signing

Name of Person Signing

Executive Vice-President

Title

Jurisdiction in which Operated

Description of what this FCP is for Development of 2 office buildings and related parking under approved Use Permit U-279-83

I hereby certify that I have the authority to make this application, that the application is complete and correct and that I have read and understand all procedures for filing this.

Signature of Applicant

Roger A. Waesche, Jr
EVP

Received by: ETZ
Date: 02/18/07
Total fee: \$ 5750-
FTP No: 2085-00025

See reverse side



City of Rockville
Department of Recreation and Parks
 Forestry Division
 14625 Rothgeb Drive • Rockville, MD 20850-5312 • 240-314-8700
 www.rockvillemd.gov

FCP

APPLICATION CHECKLIST

FOREST CONSERVATION PLAN (FCP) REVIEW

Please complete this checklist and include it as part of the application submittal. Each item on the checklist must be contained in the application packet. If items are missing, the application cannot be accepted.

Required Items for Natural Resources Inventory (NRI)/Forest Stand Delineation (FSD)

I. Preliminary Forest Conservation Plan

APPLICABLE NOT

- | | | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Approved Forest Stand Delineation |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Applicable zone and pertinent afforestation and conservation threshold levels |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Table showing existing tract area, forest area, proposed forest and tree retention, proposed clearing, proposed area of reforestation and afforestation |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Plan showing the same as above including the L.O.D. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Written justification for disturbing priority retention areas |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Written justification for off-site plantings and use of non-priority areas |
| <input type="checkbox"/> | <input type="checkbox"/> | Other information as requested by City Forester |

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Concrete wash-out area |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Existing and proposed contour lines |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Sediment control devices |
| <input type="checkbox"/> | <input type="checkbox"/> | Sequence of construction |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Pre-construction activities – pruning, fertilizing, etc. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Temporary protection devices |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Permanent protection devices |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Pre-construction meeting |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Specifications for protection devices |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Proposed protection devices for individual trees |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Reforestation, afforestation and significant tree replacement plan |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Planting details |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Planting stock table |
| <input type="checkbox"/> | <input type="checkbox"/> | Binding two-year warranty and maintenance agreement |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Long term easements |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | City of Rockville Tree Protection Notes |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Proposed Utility Locations |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Proposed Construction Including Stormwater Management Facility |

II. Final Forest Conservation Plan

- | | | |
|-------------------------------------|-------------------------------------|--|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | All information required in a preliminary forest conservation plan |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | All items from State work sheet, in square feet |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Significant tree replacement table |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Forest retention areas with priority |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Reforestation area |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Afforestation areas |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Limits of disturbance |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Stockpile areas |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Location of significant trees & C.R.Z. |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Field verified edges reflecting C.R.Z. |

COMMON MISTAKES ON THE FSD

- Incorrect critical root zone
- No significant tree replacement table
- No City of Rockville Tree protection notes
- Root pruning in the wrong location
- House location designs do not take CRZ into consideration
- Incorrect limits of disturbance
- Tree protection fence inside the L.O.D.
- FCP is not consistent with the sediment control plan

*The preparer is responsible for checking off all items considered complete.

THIS AREA FOR STAFF USE ONLY

Field Review

Comments: _____

Field verification of FSD done by: _____

Signature: _____ Date: _____



City of Rockville
Department of Recreation and Parks
Forestry Division

Forest Conservation Plan Review for
Rockville Corporate Center
15 and 45 West Gude Drive

Applicant:	Sean Moore Corporate Office Properties Trust 8815 Centre Park Drive, Ste. 400 Columbia, MD 21045 sean.moore@copt.com	FTP No.	2005-00025
		Date:	February 26, 2007
		Reviewer:	Elise Cary
		App. rec'd:	January 18, 2007

The following review comments are based on the January 18, 2007 FCP submission to the City Forester's office. The plan was reviewed despite several inconsistencies with the approved Use Permit (U-279-83 approved on October 12, 1983). These discrepancies include: the as-built parking lot configuration, building footprint for Lot D, and a two foot increase in the parking lot setback along the northern property line. The forty-five day review period is suspended until the following revisions are made:

1. The FCP worksheet should be revised to show the correct amount of forest on site: which is 8.7 acres. The amount of Total Forest Acreage shown on the approved NRI Forest Stand Chart was not tabulated correctly. The total forest on site consists of forest areas F1 (5.15 ac.), WD (1.21 ac.) and FC (2.34 ac.), which equals 8.7 ac. This will also result in a revised reforestation requirement.
2. Maximizing forest and tree preservation on site is a stated policy of the Mayor and Council and is consistent with the Forest and Tree Preservation Ordinance (FTPO). The FCP is not consistent with the FTPO and is deficient in the following ways:
 - a. Based on the approved FSD prepared by CNA, forest stands F1 and WD are considered priority retention areas per Section 10.5-21(b) of the FTPO. Under this Section priority forests must be retained and left undisturbed unless the City Forester has determined that reasonable efforts have been made to preserve this forest, and the plan cannot be reasonably altered to preserve this forest. The FCP, as prepared, preserves less than 10% of the 6.36 acres of priority forest and it has not been demonstrated that the site layout cannot be reasonably altered to preserve this forest. Furthermore, under Section 10.5-13 of the FTPO, written justification for disturbing priority retention areas is required and has not been provided to the City Forester.
 - b. The amount of forest cleared by the site layout results in a significant reforestation requirement (3.9 acres). The FCP proposes to meet this requirement through off-site planting or fee-in-lieu. The preferred sequence for reforestation as listed in Section 10.5-23 of the FTPO is to provide all required planting on site.
 - i. The plan as prepared does not provide for any of the reforestation on site. Furthermore, the City does not have any off-site locations on City property for planting this amount of forest. The applicant has not proposed any off-site locations within the City for reforestation on private property.

- ii. According to Section 10.5-24 of the FTPO, a contribution to the Forest Conservation Fund in the form of fee-in-lieu may be permitted with approval of the City Forester, only after it has been demonstrated to the satisfaction of the City Forester that reforestation on or off-site cannot be accomplished.
- c. The location of the existing Forest Conservation Easement (FCE) on the King Farm property must be shown on the plan. Written notification to the King Farm Citizen's Assembly is required stating that the proposed development impacts trees on their property. In addition, the adjacent gas line easement and all other on-site easements must be shown.
- d. All significant trees must be shown on the plan. Under Section 10.5 of the FTPO, the definition of a significant tree includes trees six inches diameter at breast height (DBH) and greater within 25 feet of the limits of disturbance.
- e. The review of the tree replacement planting plan cannot be completed until all significant trees are shown.
 - i. The location of all significant trees must be shown in order to determine appropriate locations for replacement tree planting.
 - ii. No more than one or two replacement trees may be planted within the critical root zones of trees to be saved.
 - iii. Replacement and reforestation trees cannot be planted over existing or proposed utilities.
 - iv. Trees must be planting within a minimum seven-foot wide tree lawn.
 - v. Spacing for replacement trees shall be as follows:
 - 1. Shade trees: 20' minimum
 - 2. Evergreen trees: 15' minimum
 - 3. Ornamental trees: 15' minimum
- f. Under Section 10.5-13 of the FTPO, details and specification of protective devices and measures to be used prior to and during construction activities to protect forest and significant trees must be shown.
- g. The Sediment Control Plan must be submitted to ensure consistency with the FCP. The review of the FCP cannot be completed until this plan is submitted to Forestry.
- h. The FCP must be consistent with Community Planning and Development Services and Public Works requirements.

The FCP cannot be approved as submitted. The plan must be revised to meet the FTPO requirements listed above.

Upon approval of the FCP, a bond, Executed Warranty and Maintenance Agreement and recorded Forest and Tree conservation Easement and Declaration of Covenants are required before any permits are released.

Submit two copies of the revised Forest Conservation Plan to:

Elise Cary
 Assistant City Forester
 City of Rockville
 14625 Rothgeb Drive
 Rockville, MD 20850-5312

Phone: 240-314-8710

Fax: 240-314-8719

Email: ecary@rockvillemd.gov

Cc: Wayne Noll, City Forester
 Charles Baker, Chief of Inspection Services
 Jim Wasilak, Chief of Planning
 Susan Straus, Chief Engineer-Environment

 Kevin Johnson, President, JBA, Inc.



City of Rockville
111 Maryland Avenue
Rockville, Maryland
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Public Works
240-314-8500
TTY 240-314-8137
FAX 240-314-8539

Public Works Operations
240-314-8570
FAX 240-314-8589

Motor Vehicle Maintenance
240-314-8485
FAX 240-314-8499

Water Treatment Plant
240-314-8555
FAX 240-314-8564

MAYOR
Larry Giammo

COUNCIL
Robert E. Dorsey
Susan R. Hoffmann
Phyllis Marcuccio
Anne M. Robbins

CITY MANAGER
Scott Ullery

CITY CLERK
Claire F. Funkhouser

CITY ATTORNEY
Paul T. Glasgow

Attachment F

March 16, 2007

Mr. Geoff Ciniero
Johnson, Bernat Associates, Inc.
1395 Piccard Drive, Suite 350
Rockville, Maryland 20850

Subject: COPT Site - SMP2006-00036

Dear Mr. Ciniero:

Your revised Stormwater Management (SWM) Concept received October 13, 2006, for the Corporate Office Properties – Rockville Campus (COPT Site) is conditionally approved. The proposed development includes the construction of a new building and additional parking on the 24-acre site. According to the December 7, 2006 letter from Kevin Johnson, Johnson, Bernat Associates, Inc., and the December 6, 2006 letter from Sean Moore, COPT, this concept is based on and consistent with both the Approved Use Permit USE 279-83 and the Use Permit Amendment application that was under review in summer, 2006. It does not reflect later site plans that were submitted to the City for discussion purposes. (This conditional approval of the SWM Concept does not amount to a determination that the development activity described in the SWM Concept in fact complies with either USE279-83 or the use permit amendment application.)

This revised SWM Concept was submitted at the City's August 4, 2006 request to resolve a conflict between the SWM Concept first approved for this site (approval dated June 19, 2006) and an existing underground SWM facility that was not clearly shown in the original SWM concept. Since the existing underground facility was initially proposed to be retained, your concept needed to demonstrate that the facility could remain undisturbed, or if it had to be disturbed under the new site development plan, replacement water quality treatment was to be provided for the impervious area treated by this facility. The current concept includes removing the underground facility.

This proposed project disturbs 47% of the total site, which is less than half of the site so SWM is required only for the disturbed area. A table of the site acreages for SWM treatment is attached. The project will require SWM to be addressed for a total of 8.8 onsite impervious acres (5.15 impervious acres in sub-area #1 and 3.65 impervious acres in sub-area #2) plus a portion of the existing Route 355 right-of-way (ROW) adjacent to the proposed disturbance. The SWM concept proposes the following measures:

1. Water Quality Volume (WQ_v) for onsite impervious area to be provided by two underground StormFilters, an MDE-approved proprietary filtration method. The pipe storage for the StormFilters will incorporate a gravel sump underneath of the underground CMPs to address groundwater recharge requirements. SWM Facility #1 will treat 3.51 new/replacement impervious acres and 1.64 impervious acres of existing parking lot as described below. SWM Facility #2 will treat 3.65 impervious acres.

Since the proposed SWM Facility #1 will disturb an existing stone trench that was constructed for the adjacent parking lot in the first development phase during the 1980s, the City is requiring that replacement water quality treatment for this 1.64 impervious-acre parking lot be provided as part of this new project. Although the parking lot will not be disturbed by the proposed development, its SWM facility will be disrupted; therefore, the

Mr. Geoff Ciniero
March 16, 2007
Page 2

applicant must provide SWM that meets current standards in accordance with City regulations. Additional capacity within the StormFilter system will be provided to manage this parking lot.

2. Overbank Flood Protection (Qp_{10}) and Channel Protection (CP_v) will be provided for the 3.51 acres of new/replacement imperviousness in sub-area #1 (the east area) in onsite underground pipe storage. Quantity treatment is not required for the existing 1.64 impervious acre parking lot. Qp_{10} and CP_v for 3.65 impervious acres in sub-area #2 (the west area) is provided in Watkins Pond, the City's regional SWM pond at King Farm. Runoff from this sub-area drains directly to Watkins Pond. Therefore, sub-area #2 will use the SWM alternative of a SWM monetary contribution payment of \$146,000 (3.65 impervious acres X \$40,000/impervious acre) since SWM quantity control is provided offsite by others.
3. Adjacent ROW for Route 355 must also be included in the site's SWM obligations per City code, Chapter 19. The ROW area adjacent to the proposed disturbance is approximately 543 linear feet; this is multiplied by the first 30' of the ROW to yield 0.37 acres that was considered 100% impervious. Since the ROW area enters the public storm drain downstream of SWM Facility #1, it cannot be treated in the onsite facility. Therefore, this area will be managed by payment of a SWM monetary contribution for both quality and quantity in the amount of \$19,240 (0.37 impervious acres X \$52,000/impervious acre).

This SWM concept is approved subject to the following conditions:

1. Submit SMP permit application, permit fees, and SWM Database Sheets associated with the SWM plans.
2. Submit detailed storm drain and SWM plans and computations to Lise Soukup, Civil Engineer II, for approval by the Department of Public Works (DPW). Submit for review and approval the construction estimates associated with the SWM plans.
3. Post financial security based on the approved SWM construction estimate in a format acceptable to the City Attorney. Approval is coordinated through DPW staff.
4. Submit a SWM Easement /Maintenance Agreement signed by the property owners for review and approval by DPW and the City Attorney's Office. Approved SWM Easement/Maintenance Agreement must be recorded in the Montgomery County Land Records prior to DPW permit issuance.
5. Provide safe conveyance of storm flows. Provide storm drain computations for the proposed storm drain throughout the site and for the tie-in to the Route 355 storm drain.
6. Pay SWM monetary contribution as required prior to issuance of PWK and SMP permits. Final contribution amount shall be based on the impervious acreage shown on the final engineering plans. Based on the SWM Concept submittal, this will be a total of \$165,240.
7. Obtain Maryland State Highway Administration approval for tie-in to the storm drain in Route 355.

Mr. Geoff Ciniero
March 16, 2007
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This conditional SWM Concept approval does not address the adequacy of the proposed site plan with regard to meeting other applicable City requirements, including but not limited to planning requirements, sediment control requirements, parking requirements, forest conservation requirements, and building code requirements. This conditional SWM Concept does not constitute approval of the pending use permit amendment application or of the pending building permit application. Should the proposed development site plan change, a new SWM Concept must be submitted for review and approval.

If you have any questions relating to the technical SWM issues, please contact Lise Soukup, Civil Engineer II, of my staff at 240-314-8515.

Sincerely,



Susan T. Straus, P.E.
Chief Engineer/Environment

STS/LMS/mbw

cc: Sean Moore, Corporate Office Properties Trust
Jim Wasilak, Chief of Planning
✓ Sondra Block, Assistant City Attorney
Lise Soukup, Civil Engineer II
Margaret Hall, Planner II
Elise Cary, Assistant City Forester
Permit Plan, SMP2006-00036
Day File

Attachment

COPT Acreages for SWM Concept - 2/28/07 by Johnson, Bernat Assoc. & City DPW			
Overall Site Acreages		Gross Acreage (ac)	Impervious Acreage (ac)
TOTAL ONSITE DISTURBANCE		11.23	N/A
RTE. 355 ROW		0.37	0.37
SWM FACILITY #1 (EAST SIDE) – Quality Breakdown	Total Acreage treated in facility #1 for Quality - excludes ROW	6.23	5.15
	<i>onsite imp. created by this plan</i>	4.34	3.51
	<i>existing imperv. in onsite parking lot (QL replacement for stone trench)</i>	1.89	1.64
ROW adjacent to proposed disturbed area - (543'X30')	<i>Rte. 355 ROW imp. - cannot reach Facility #1, to be covered by monetary contribution</i>	0.37	0.37
SWM FACILITY #1 (EAST SIDE) - Quantity Breakdown	Total Acreage treated in facility #1 for Quantity - excludes ROW	4.58	3.51
	<i>onsite imp. created by this plan</i>	4.34	3.51
	<i>existing imperv. in onsite parking lot (QL replacement for stone trench)</i>	0	0
	<i>Offsite Area - reaches Facility #1, will be treated in here</i>	0.24	0
ROW adjacent to proposed disturbed area - (543'X30')	<i>Rte. 355 ROW imp. - cannot reach Facility #1, to be covered by monetary contribution</i>	0.37	0.37
SWM FACILITY #2 (WEST SIDE) - Quality	Total Acreage to be treated in facility for Quality	5.00	3.65
SWM FACILITY #2 (WEST SIDE) – Quantity	Total Acreage for Quantity (treated offsite in King Farm's Watkins Pond for quantity, to be covered by monetary contribution)	5.00	3.65

Note - This SWM Concept supports approved Use Permit #279-83 & the pending 2006 Use Permit Amendment.

Ordinance No. 28-04 ORDINANCE: To Grant Text Amendment Application No. TXT2004-00207, as amended, FP Rockville Limited Partnership, Applicant

WHEREAS, FP Rockville Limited Partnership, 9600 Blackwell Road, Suite 200, Rockville, Maryland 20850, filed Text Amendment Application TXT2004-00207, for the purpose of extending the validity period of use permits for a multi-phase project from eight years to 12 or 14 years under certain circumstances; and

WHEREAS, the Mayor and Council of Rockville reviewed the aforesaid application at its meeting of February 9, 2004, and accepted the application for further processing; and

WHEREAS, the Planning Commission reviewed the proposed text amendment application at its March 24, 2004, meeting and recommended approval with modifications, as set forth in a memorandum dated April 1, 2004; and

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Council of Rockville gave notice that a hearing on said application would be held by the Mayor and Council in the Council Chambers at Rockville City Hall on April 19, 2004, at 7:00 p.m. or as soon thereafter as it may be heard; and

WHEREAS, on April 19, 2004, said application came on for hearing at the time and place provided for in said advertisement; and

WHEREAS, the Mayor and Council having considered the text amendment application, and the entire file pertaining thereto, said Mayor and Council having decided that the granting of this application, as amended, in the form set forth below would promote the health, safety and welfare of the citizens of the City of Rockville.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Text Amendment Application No. TXT2004-00207 be, and the same is hereby, granted, as amended, in the form set forth below:

That Chapter 25 of the Rockville City Code entitled "Zoning and Planning" be amended by amending Article V, "Permits"; Division 2, "Use Permit," Section 25-193, "Issuance, term, etc." to read as follows:

Sec. 25-193. Issuance; term, etc.

(a) A use permit shall be issued if the Planning Commission, the Mayor and Council, or the Chief of Planning, as the case may be, finds that the use proposed in the application will not:

- (1) Affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Be detrimental to the public welfare or injurious to property or improvements in the neighborhood; or
- (3) Constitute a violation of any provision of this Code or other applicable law.

(b) The Planning Commission, the Mayor and Council, or the Chief of Planning may attach such conditions to the approval of the use permit as may be reasonable and necessary to assure that the proposed use will be consistent with the purpose and intent of this chapter. Such conditions of approval may include, but not be limited to, a requirement that plans and programs for soil erosion and sediment control, as set forth in Chapter 19 of this Code, be carried out in conjunction with the use and development of any land for which a use permit is issued[, and a limitation on the time for implementing all phases of a multiple building development use permit. Notwithstanding the provision of subsection (d) hereof, the limitation for commencement for all phases of development for multiple building development use permit, shall not exceed eight (8) years].

(c) No deviation from the plans so approved shall be permitted without approval as provided in this subsection:

- (1) No substantial deviation from plans approved shall be permitted without the approval of a new use permit following the same procedure as in the case of an original application;
- (2) Any deviation not deemed substantial by the Chief of Planning may be considered and acted upon by the Chief of Planning following submission of an application to amend the use permit for insubstantial deviations;

(d) Construction or operation shall commence within two (2) years of the date of issuance or the use permit shall become void. For good cause shown, not more than two extensions not exceeding one (1) year each, may be granted by the Planning Commission, the Mayor and Council, or the Chief of Planning, depending on who has authority over the application.

(e) Notwithstanding compliance with subsection (d) hereof, a use permit shall become void for those buildings within a multiple building development for which construction has not commenced within eight (8) years from the date of issuance of the use permit, except that for any development located within any of the Town Center zones identified in Article 6 of this chapter or within the Twinbrook Metro Performance District the following shall apply:

(1) Where thirty percent (30%) or more of the total approved gross floor area has been constructed within eight (8) years from the date of issuance of the use permit, the use permit shall become void with respect to any building for which construction has not commenced within twelve (12) years from the date of issuance of the use permit.

(2) Where sixty percent (60%) or more of the total approved gross floor area has been constructed within twelve (12) years from the date of issuance of the use permit, the use permit shall become void with respect to any building for which construction has not commenced within fourteen (14) years from the date of issuance of the use permit

(3) Where construction has not commenced on all approved buildings within eight (8) years from the date of issuance of the use permit, no additional construction may occur pursuant to the use permit until a revised transportation report prepared in compliance with the City's then current transportation analysis methodology has been submitted to, and reviewed by, the approving authority. The applicant must comply with any additional off-site traffic mitigation measures as may be required by the approving authority to address any additional traffic impacts identified in the revised transportation report and not addressed in the initial transportation report.


(4) Any development for which a use permit has been issued prior to August 25, 2004 shall not be subject to the requirements of subsection (e) (3).

Nothing herein shall affect the validity of a use permit for a building constructed in accordance with the requirements of the use permit prior to the expiration of the time frames set forth herein.

[(e)] (f) Whenever the Planning Commission, the Mayor and Council, or the Chief of Planning find that any permit previously approved has not been complied with, the Planning Commission, the Mayor and Council, or the Chief of Planning are authorized after written notice by first class mail to the applicant and any persons who appeared before the Commission, or Mayor and Council or entered their appearance in writing prior to the approval of the use permit, and after granting the applicant an opportunity to be heard, suspend or revoke the use permit or take such other action as deemed necessary.

NOTE: [Brackets] indicate material deleted
Underlining indicates material added

I hereby certify that the foregoing is a true and correct copy of an
ordinance adopted by the Mayor and Council at its meeting of August 31, 2004.


Claire F. Funkhouser, CMC, City Clerk

Attachment H

Chapter 10.5 FOREST AND TREE PRESERVATION*

***Editor's note:** Ord. No. 21-92, adopted Dec. 14, 1992, amended the Code by adding provisions designated as a new Ch. 23.5. In order to maintain the alphabetical sequence of chapters, said provisions have been redesignated as Ch. 10.5, at the discretion of the editor.

Art. I. In General, §§ 10.5-1--10.5-10

Art. II. Forest Stand Delineation and Forest Conservation Plans, §§ 10.5-11--10.5-20

Art. III. Retention, Tree Replacement, Afforestation and Reforestation Requirements, §§ 10.5-21--10.5-24

Art. IV. Forest Conservation, Maintenance and Management Agreements, §§ 10.5-25--10.5-30

Art. V. Individual Tree Removal, §§ 10.5-31, 10.5-32

Art. VI. Enforcement, §§ 10.5-33--10.5-35

ARTICLE I. IN GENERAL**Sec. 10.5-1. Purpose.**

The purpose of this chapter is to:

- (1) Encourage the preservation and enhancement of Rockville's urban forests.
- (2) Replace tree cover in non-forest areas within the City.
- (3) Establish procedures, standards and requirements that protect trees and forests during and after development activity and minimize tree loss due to development activity.
- (4) Establish procedures, standards and requirements for afforestation and reforestation of land within the City.
- (5) Meet the requirements of the Natural Resources Article, Sections 5-1601 through 5-1613 of the Annotated Code of Maryland.

(Ord. No. 21-92, 12-14-92; Ord. No. 2-00, 3-27-00)

Sec. 10.5-2. Scope.

Except as otherwise provided, this chapter applies to all applications for a covered permit or covered approval as defined in section 10.5-5 of this chapter made on or after January 1, 1993.

(Ord. No. 21-92, 12-14-92; Ord. No. 2-00, 3-27-00)

Sec. 10.5-3. Interpretation.

- (a) All references in this chapter to provisions of the Annotated Code of Maryland shall refer to the provisions as they currently exist and as they may be subsequently amended.
- (b) References to COMAR are to the Code of Maryland Regulations and refer to the referenced provisions of those regulations as they currently exist and as they may be subsequently amended.
- (c) The provisions of this chapter shall be interpreted and applied in conjunction with the specifications and clarifications contained in the Forest Conservation Manual.

(Ord. No. 21-92, 12-14-92; Ord. No. 2-00, 3-27-00)

Sec. 10.5-4. Administration.

- (a) *The Mayor and Council.* The Mayor and Council shall:

- (1) Establish by resolution fees to cover the cost of administering this chapter;
- (2) Adopt by resolution a Forest Conservation Manual which shall meet the minimum requirements of the State Forest Conservation Manual and shall include, but not be limited to:
 - a. Standards for preparing and evaluating a Forest Stand Delineation;

- b. Standards for preparing and evaluating a Forest Conservation Plan, including priorities for retention, reforestation and afforestation;
- c. A recommended tree species list;
- d. Forest and tree protective measures to be provided prior, during and after clearing or construction;
- e. Other standards, requirements, and clarifications consistent with this chapter.

(b) *The City Manager.* The City Manager, through the City Forester and other authorized designees shall:

- (1) Administer the provisions of this chapter and the City's Conservation Manual.
- (2) Prepare and submit the reports to the Senate Environmental Affairs Committee and the House Environmental Matters Committee required by Natural Resources Article, Section 5-1613 of the Annotated Code of Maryland.
- (3) Develop procedures and policies necessary to administer this chapter.

(c) *The City Forester.* The City Forester, or such other individual or individuals as may be designated by the City Manager, shall:

- (1) Review and approve or disapprove Forest Stand Delineations and Forest Conservation Plans, and other submissions, as provided for by this chapter;
- (2) Interpret and apply the standards of the Forest Conservation Manual;
- (3) Develop technical standards and specifications for forest and tree protective measures and planting of trees and forests;
- (4) Inspect development activity to determine compliance with approved conservation plans and the provisions of this chapter;
- (5) Issue tree removal permits in accordance with section 10.5-32 of this chapter;
- (6) Assess fines and administrative penalties pursuant to section 10.5-34.

(Ord. No. 21-92, 12-14-92; Ord. No. 2-00, 3-27-00)

Sec. 10.5-5. Definitions.

For purposes of this chapter and the Conservation Manual, the following words, terms and phrases shall have the meaning respectively ascribed to them as set forth below. Any word, term, or phrase not defined herein or in the Conservation Manual shall have the meaning ascribed to them in state law or regulation.

Afforestation means the establishment of tree cover on an area from which it has always or very long been absent, or the planting of open areas which are not presently in forest cover.

Applicant means a person who applies for a covered permit or approval as defined in this section.

Approval or *approved* when referring to the approval of a Forest Stand Delineation, or a Forest Conservation Plan, (including a preliminary conservation plan), means the approval of said delineation or plan by the City Forester.

Board of Appeals means the Board of Appeals created by Chapter 25 of this Code.

Break-even point means the point at which forest conservation requirements can be met solely through forest retention.

Caliper means the diameter measured in inches measured at two (2) inches above the root collar.

Champion tree means the largest tree of its species within the United States, the State, county, or municipality.

City means the City of Rockville.

Conservation Manual means the City's Forest Conservation Manual as defined in this section.

Conservation Plan means a Forest Conservation Plan as defined in this section.

Covered activity means any of the following activities occurring in connection with a tract within the City:

- (1) Subdivision of land;
- (2) An activity that requires a grading and sediment control permit;
- (3) An activity that requires a use permit or a use permit amendment;
- (4) A planned development as defined in this section.

Covered approval means approval of a subdivision (preliminary or final) or of a planned development, as defined herein.

Covered permit means a use permit, an amendment to a use permit or a sediment control permit issued by the City. A sediment control permit is required by Chapter 19 of this Code before any grading can be performed.

Critical habitat area means a critical habitat for a threatened or endangered species and its surrounding protection area. A critical habitat area is an area that:

- (1) Is likely to contribute to the long-term survival of the species;
- (2) Is likely to be occupied by the species for the foreseeable future; and
- (3) Constitutes a habitat of the species which is considered critical under Natural Resources Article, §§ 4-2A-04 and 10-2A-04, Annotated Code of Maryland.

Critical root zone means the zone in which the majority of a tree's roots lay, as calculated by the Forest Conservation Manual.

DBH means diameter in inches at breast height.

Declaration of intent means a statement executed and recorded among the Land Records by a property owner verifying that proposed activity is either exempt or excepted, in whole or in part, from a requirement of this chapter, and shall contain the following:

- (1) Satisfactory assurances of limited or no additional development activity on the tract;
- (2) An agreement to comply with the provisions of this chapter at such time as any additional development occurs on the property; and
- (3) Such other provisions deemed appropriate by the City.

Development activity means grading, excavation, or construction activities occurring on a specific tract, and includes redevelopment.

Development project completion means:

- (1) The release of all required bonds;
- (2) Acceptance of the project's streets, utilities, and public improvements by the City; or
- (3) Designation by the City or State that a:

- a. Development project has been completed, or
- b. Particular stage of a staged development project has been completed.

DNR means the State of Maryland Department of Natural Resources.

Environmental guidelines means guidelines adopted by Mayor and Council Resolution No. 11-99, as may hereafter be amended or modified, requiring identification of natural resources and the implementation of buffers and other strategies and techniques to preserve and protect the environment and to mitigate the adverse impact of development on the environment.

Forest:

- (1) "Forest" means a contiguous biological community dominated by trees and other woody plants covering a land area of ten thousand (10,000) square feet or greater.
- (2) "Forest" includes:
 - a. Areas that have at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having a two-inch or greater diameter at four and one-half (4.5) feet above the ground and larger; and
 - b. Areas that have been cut but not cleared.
- (3) "Forest" does not include orchards.

Forest conservation means the retention of existing forest or the creation of new forest at the levels set by the City.

Forest conservation and management agreement means an agreement as stated in the Tax-Property Article, § 8-211, Annotated Code of Maryland.

Forest Conservation Plan means a plan providing for the maintenance, replacement, reforestation, and afforestation of the forest as provided by section 10.5-13 of this chapter.

Forest Conservation Manual means the detailed document containing technical specifications and standards of performance used in the implementation of this chapter, including the preparation of Forest Stand Delineations and Forest Conservation Plans.

Forest Conservation Worksheet means a worksheet used for calculating reforestation and afforestation requirements.

Forest conservation threshold means the percentage of the tract area at which the reforestation requirement under section 10.5-22 of this chapter changes from a ratio of one-quarter (1/4) acre planted for each acre removed above the threshold to a ratio of two (2) acres planted for each acre removed below the threshold.

Forest cover means the area of a tract meeting the definition of forest.

Forest Stand Delineation means the methodology for evaluating the existing vegetation on a site proposed for development activity, as provided in this chapter, and the conservation manual.

Intermittent stream means a stream in which surface water is absent during a portion of the year as shown on the most recent 7.5 minute topographic quadrangle published by the United States Geologic Survey as confirmed by field verification.

Issuing Authority means that employee, division, department, Board, or Commission of the City authorized to issue a covered permit or grant a covered approval.

Land Records means the Land Records of Montgomery County, Maryland.

Limits of disturbance means the area within which all construction, grading, excavating, and clearing will occur.

Maintenance agreement means a short-term management agreement, for a minimum of two (2)

years, relating to afforestation or reforestation plans required under Natural Resources Article, § 5-1605, Annotated Code of Maryland and this chapter.

Natural Resources Inventory (NRI) means a complete analysis of existing natural features, forest, and tree cover on site as further defined and described in the Environmental Guidelines.

Nontidal wetlands:

(1) "Nontidal wetlands" means an area that is:

a. Inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and under normal conditions does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation; and

b. Considered a nontidal wetland in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended and interpreted by the U.S. Environmental Protection Agency.

(2) "Nontidal wetlands" does not include tidal wetlands regulated under Natural Resources Article, Title 9, Annotated Code of Maryland.

Offsite means outside of the limits of the area encompassed by a tract.

Onsite means within the limits of the area encompassed by a tract, including an area classified as a 100-year floodplain.

100-year floodplain means an area along or adjacent to a body of water with ground surface elevations that are inundated by the waters of the one hundred (100) year flood.

Park buffer means an area of separation that preserves the integrity of a park/recreation area by preventing physical or aesthetic encroachment from adjoining land uses, as further defined and described in the Environmental Guidelines.

Person means the federal government, the State, a county, municipal corporation, or other political subdivision of the State, or any of their units, or an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any of their affiliates, or any other entity.

Planned development means a planned residential unit development, a residential townhouse development, and comprehensive planned development as set forth in Chapter 25, Article XII (Special Development Procedures) of this Code.

Priority planting areas means those areas identified in section 10.5-23(b) of this chapter as priority areas for afforestation and reforestation.

Priority retention areas means those areas identified in section 10.5-21(b) of this chapter as priority areas for forest and tree retention and protection.

Qualified Preparer means an individual qualified to prepare a Forest Stand Delineation and a Forest Conservation Plan, including a licensed Maryland forester, a licensed landscape architect, and any individual who otherwise meets the standards for a qualified professional as specified in COMAR 08.19.06.01

Recorded lot for purposes of this chapter only means a unit of land, the boundaries of which have been established by a deed or subdivision plat recorded in the Land Records of Montgomery County.

Reforestation or reforested means the replacement of removed forested areas by the creation of a biological community dominated by trees and other woody plants containing at least one hundred (100) live trees per acre with at least fifty (50) percent of those trees having the potential of attaining a two-inch or greater diameter measured at four and one-half (4.5) feet above the ground, within seven

(7) years; or establishment of a forest according to procedures set forth in the Forest Conservation Manual.

Retention means the deliberate holding and protecting of existing trees, shrubs or plants on the site according to established standards as provided in the City of Rockville Forest Conservation Manual.

Significant tree means a champion tree, a specimen tree, or a tree located within a forest with a diameter of twenty-four (24) inches or more, a tree located outside of a forest with a diameter of twelve (12) inches or more, or a tree located within twenty-five (25) feet of the limits of disturbance with a diameter of six (6) inches or more.

Single-family residential lot, for purposes of this chapter, means a lot regardless of zone, improved with a structure containing not more than one (1) single-dwelling unit. This term includes townhouses and semi-detached dwellings located on separate lots and one-family dwellings that are modified to include an accessory apartment approved by special exception. This term does not include any common area owned by a homeowner's association or similar entity.

Specimen tree means a tree with a diameter that is seventy-five (75) percent of the diameter of the state champion tree of that species.

State Forest Conservation Manual means the Forest Conservation Technical Manual prepared for the Maryland Department of Natural Resources for use in the implementation of the 1991 Forest Conservation Act, as it currently exists and as it may be subsequently amended.

Stream buffer means a strip of natural vegetation contiguous with and parallel to the bank of a perennial or intermittent stream and designed to protect the stream, as further defined and described in the Environmental Guidelines.

Street tree means any tree planted in the public right-of-way.

Subdivision means the division of a lot, tract or parcel of land into two (2) or more lots, plats, sites, or other divisions of land or assemblage of land for the purpose, whether immediate or future, of sale, lease, transfer of ownership, or development. "Subdivision" includes resubdivision, but does not include the creation of ownership lots as that term is defined in chapter 25 of this Code.

Tract means a property or unit of land for which an application for a covered permit or approval is filed. A tract may consist of one (1) or more lots or parcels of land.

Tract area means the total area of a tract, including both forested and non-forested areas, to the nearest one hundred (100) square feet.

Tract for a planned development activity means the entire property subject to a planned development.

Tract subdivision means all that property encompassed by a plat of subdivision.

Tree means a large, branched woody plant having one or several self-supporting stems or trunks that reach a height of at least twenty (20) feet at maturity.

Tree replacement means replacement of individual significant trees removed whether or not as a result of development activity.

Watershed means all land lying within an area described as a subbasin in water quality regulations adopted by the State Department of the Environment under COMAR 26.08.02.08.

(Ord. No. 21-92, 12-14-92; Ord. No. 2-00, 3-27-00)

Sec. 10.5-6. Reserved.

Editor's note: Ord. No. 2-00, adopted March 27, 2000, repealed in their entirety the provisions of §

10.5-6 which pertained to a homeowner's responsibility and derived from Ord. No. 21-92, adopted Dec. 14, 1992.

Secs. 10.5-7--10.5-10. Reserved.